

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jay M. SHORT

Application No.: 10/034,985

Confirmation No.: 9024

Filed: December 21, 2001

Art Unit: 1652

For: RECOMBINANT BACTERIAL PHYTASES
AND USES THEREOF

Examiner: Delia M. Ramirez, Ph.D.

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER UNDER 37 CFR §§3.73(b) AND 1.321(b)

Pursuant to 37 CFR §3.73(b), VERENIUM CORPORATION, certifies that it is the assignee of the entire right, title, and interest in the above application by virtue of an assignment from the inventors of the patent application identified above. A name change from Diversa Corporation to VERENIUM CORPORATION was recorded in the Patent and Trademark Office at Reel 020403, Frame 0516 on January 24, 2008. The assignment from the inventors to Diversa Corporation was recorded in the Patent and Trademark Office at Reel 020397, Frame 0142 on January 22, 2008.

The undersigned has reviewed all the documents in the chain of title of the above-identified application and to the best of undersigned's knowledge and belief, title is in VERENIUM CORPORATION .

The undersigned is empowered to act on behalf of the assignee.

Pursuant to 37 CFR §1.321(b), and to obviate a rejection under the judicially created doctrine of obviousness-type double patenting, the assignee identified above hereby waives and disclaims the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of U.S. Patent No. 6,183,740, whereby the patent granted on this application and U.S. Patent No. 6,183,740 will expire on the same day, provided that any patent granted on the above identified application shall be enforceable only for and during such period that it is commonly owned with U.S. Patent No. 6,183,740.

The assignee identified above does not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of U.S. Patent No. 6,183,740, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Assignee herein does not disclaim or otherwise affect any part of U.S. Patent No. 6,183,740.

This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

Further, the owner does not disclaim any right to an extension of the term of any patent issuing from the instant application under 35 U.S.C. §§ 155 156 or adjustment of patent term pursuant to 35 U.S.C. § 154(b) or pursuant to any other subsequently enacted public law or act which provides for extension of term of a patent.

If necessary, please charge any additional fees, or make any credits, to Deposit Account No. 03-1952, referencing Attorney Docket No. 564462001811.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: July 15, 2008

Respectfully submitted,

By /Gregory P. Einhorn/

Gregory P. Einhorn

Registration No.: 38,440

MORRISON & FOERSTER LLP

12531 High Bluff Drive, Suite 100

San Diego, California 92130-2040

(858) 720-5133 direct line

general office 858 720 5100

fax direct 858 523 5933

fax office 858 720 5125

email geinhorn@mofo.com